

ORIGINAL

UNITED STATES DISTRICT COURT
Southern District of New York

Avis J. Smith,

Plaintiff,

COMPLAINT

-Against-

Jury Demand

New York Harbor Healthcare System
(VA Medical Center) Administrator,
Martina A. Parauda and Dr. Gayle T. Miranda
Defendants

X

I.

PARTIES

Plaintiff: Avis J. Smith resides at: 8710 149th Avenue #2D Howard Beach, New York 11414.

Defendants: New York Harbor Healthcare System, Administrator Martina A. Parauda, Dr. and Gail Miranda at: 423 East 23rd Street New York, New York 10010.
Gayle

II.

JURISDICTION

Administrative Remedies Act 28 U.S. Code § 2637, and Civil Rights Act 1964.

III.

STATEMENT OF FACTS

In the early 1980's the plaintiff was diagnosed with a mental disorder after being harassed by military intelligence and the C.I.A. used electronic surveillance to tamper with his brain. Plaintiff was determined to be 70%, disabled, and the Plaintiff was allowed to receive necessary dental treatment. Plaintiff fulfilled the required process by having a letter from his psychiatrist as requested by the Chief of Dental Service as far back as 1982 or 1983. Since then the 70% rating, was increased to 80% due to a condition imposed on him from a chemical put in his system by military intelligence, worsening of Plaintiff's condition. The policy of having a letter to receive dental treatment has not changed since the letter from Plaintiff's psychiatrist. The only thing that has changed is that there is a new dental chief who refused to allow Plaintiff to be treated after a dental implant, which was put in without bone grafting due to negligence, became loose and had to be removed. Bone grafting would have facilitated bone integration with the implant, just as it was with the two implants put in place by Dr. Hasso, at the VA Dental Clinic, which are successful.

The new chief of the dental clinic Dr. Gail Miranda, in her office explained to the Plaintiff her reason for refusing me treatment as, "I've seen veterans whose hands were all twisted..." This statement alone reflects not an arbitrary, but a direct conscious decision and action by this defendant to refuse the plaintiff treatment, based on the type of disability plaintiff has.

There is no VA policy, which states that the plaintiff's hands must be twisted to receive dental treatment, which indicates that Dr. Miranda has a bias against the plaintiff due to plaintiff's disability. Furthermore, there was no policy stating that there is an expiration date in reference to the original letter sent to Dr. Bergen, the Chief of the Dental Clinic in 1982 or 1983, from plaintiff's psychiatrist when determination was made for him to be treated. Also, the very same day the plaintiff's implant had to be removed, by the Assistant Chief Dr. Simmonds, during an appointment with the Resident, Dr. Ginsberg (whom plaintiff was assigned to), Dr. Ginsberg stated, "I don't see why another implant can't be done", indicating that the right treatment was to replace the implant with bone grafting. This was after Dr. Miranda refused to replace the implant, and Dr. Simmonds (Assistant Chief), who refused to recognize that the VA has determined for the past 37 years that the plaintiff is a Category 1 patient at 80%. The VA policy states that if a veteran is 50% or higher they can receive dental treatment if they bring a letter from their doctor, which plaintiff did a second time.

The plaintiff's total dental history and records are in the hands of the VA, and it would cause a hardship to start a new process at someplace else. The fact that Dr. Miranda made the statement, "I've seen veterans with hands all twisted who couldn't get dental treatment"; represents bias of the fact that plaintiff's hands aren't twisted, and does not have a disability, which demonstrates visual physical indications. All medical and dental records on the plaintiff indicate the following existing conditions during his treatment:

1. Pain in joint, 2. Dyshidrosis, 3. Paranoid Schizophrenia-Chronic, 4. Neurotic Depression and 5. Adjustment Reaction.

Plaintiff have sent letters complaining about the treatment received to the Hospital Director, Chief of Staff, Dr. Gail Miranda, Patient Advocate and Inspector General. All have ignored official documents sent to plaintiff by the VA showing his Category 1 status. All have ignored the negligence of not using bone grafting to secure the life of the implant placed, and since then a maxillary central (no. 8) has broken and fell out of plaintiff's mouth. All dentist know that bone lose can accrue in the area where the implant became loose and further complicate things for plaintiff as a patient. The life expectancy of the dental implant in tooth #30, and the broken post & core in #8, should have been longer if properly done. The determination that the implant be replaced was supported by Dr. Tarlow, Staff Dentist; Dr. Roig, Resident Dentist; Dr. Simmonds, Periodontist; and Dr. Ginsberg, Resident Dentist. Dr. Simmonds eventual reason for denying me treatment was specifically, "you're in category 3".

IV.

REMEDY

Dr. Miranda, Dr. Simmonds, the Inspector General, the Hospital Director, and the Hospital Chief of Staff; all have demonstrated negligence by failing to give proper attention to the plaintiff's case, and care as a patient with intent after seeing evidence of the plaintiff's "Category 1 Status". They demonstrate a lack of caring, lack of discretion, abuse of authority, intentional use of a false category to avoid treating the plaintiff, failure to use authority to assure proper patient care, as well as misuse of normal professional process. Plaintiff is requesting \$5,000,000 in damages due to bone lose, which they have allowed to take place by not replacing the implant, which they determined was needed and started. Negligence for not using bone grafting

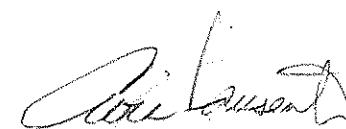
to facilitate osseointegration of the implant with the natural bone. Refusing to correct the false information in the plaintiff's dental records, which is misleading as to plaintiff's benefits Category 1 status, after evidence was shown. Refusing to complete the work they started, after numerous determinations by VA dentists, including leaving a toothless root in the plaintiff's mouth, which has metal in the root, worsening the Post Traumatic Stress, and Neurotic Depression of the Plaintiff.

The following exhibits are included:

1. Exhibit A: A copy of pages from VA Handbook showing my status; page 1-3.
2. Exhibit B: Dr. Tarlow- recommended bone grafting.
3. Exhibit C: Dr. Kazandjian-placed implant and failing to follow recommendations to use bone graft.
4. Exhibit D: Progress not indicating bone was no longer osseointegrated
5. Exhibit E: Dr. Ginsberg spoke to Dr. Miranda who refused to correct work done, and allow for replacement of implant.
6. Exhibit F: Dr. Hasso implants success where bone graft was used.
7. Exhibit G: Evidence of letter informing hospital director
8. Exhibit H: letter to inspector general
9. Exhibit I: Progress Note stating, "PATIENT NEEDS YEARYLY MEDICAL CONSULT TO MAINTAIN CATEGORY 3 ELIGIBILITY STATUE. CONSULT WITH DR. MIRANDA PRIOR TO ANY FURTHER". Plaintiff is in CATEGORY 1; Not CATEGORY 3.

27 Mar 18

Date



John Lusent

Signature

347-239-3518
Telephone Number

Exhibit A

Pages 1-5

- Subpriority g: Nonservice-connected

Chapter 3 Your VA Health Benefits Plan and Services

Your Priority Group

All enrolled Veterans regardless of Priority Group are eligible to receive VA's comprehensive medical benefits package. Additional health benefits are based on enrollment in a certain Priority Group or other factors. There are eight Priority Groups, with one being the highest; our records indicate that you are enrolled in Priority Group 1.

Your Health Benefits At A Glance

Mr. Avis Smith, Priority Group 1

Health Benefit	Coverage	Chapter
Basic Medical Benefits Package, includes	Yes	2
• Preventive Care		
• Hospital (Inpatient) Services		
• Ancillary Services		
• Mental Health		
• Home Health Care		
• Geriatrics and Extended Care		
• Medical Equipment/Prosthetic Items and Aids		
Medications/Supplies	Yes, VA will fill prescriptions written by a VA provider	3 and 7
Dental	Under certain conditions	3
VA Community Living Centers	Yes	3



VA Dental Insurance Program (VADIP)

Good oral health is more than just a nice smile or ability to chew favorite foods — it impacts a person's overall health. VA provides dental care to Veterans who meet certain eligibility standards, but would like all Veterans and beneficiaries to have access to quality dental care.

VA offers all Veterans who are enrolled in the VA health care program and beneficiaries of VA's Civilian Health and Medical Program (CHAMPVA) the opportunity to purchase dental insurance at a reduced cost through Delta Dental and MetLife. Multiple options allow participants to select a plan that provides benefits and premiums that meet their dental needs and budget. Each enrollee will pay a fixed monthly premium for coverage and any copayments required by his or her plan.

Individuals interested in participating in this pilot program may review plan details and complete an application online through either the websites of Delta Dental (www.deltadentalvadip.org) or MetLife (www.metlife.com/vadip). Coverage is available throughout the United States and its territories.

If you are interested in learning more about this program, call 1-877-222-VETS (8387) or visit www.va.gov/healthbenefits/VADIP.

~~Eligible for dental care~~

Eligibility for VA dental benefits is based on specific guidelines and differs significantly from eligibility requirements for other types of medical care.

You are eligible for outpatient dental treatment if you meet one of the following criteria:

- | | |
|--|-------------------------|
| If you: | You are eligible for: |
| Have a service-connected compensable dental disability or condition. | Any needed dental care. |

If you:

- | | |
|---|--|
| Apply for dental care within 180 days of discharge or release (under conditions other than dishonorable) from a period of active duty of 90 days or more during the Persian Gulf War era. | You are eligible for:
One-time dental care if your DD214 certificate of discharge does not indicate that a complete dental examination and all appropriate dental treatment had been rendered prior to discharge. |
|---|--|

- | | |
|---|---|
| Have a service-connected non-compensable dental condition or disability resulting from combat wounds or service trauma. | You are eligible for:
Needed care for the service-connected condition(s). A Dental Trauma Rating (VA Form 10-564-D) or VA Regional Office Rating Decision letter (VA Form 10-7131) identifies the tooth/teeth eligible for care. |
|---|---|

- | | |
|--|---|
| Have a dental condition clinically determined by VA to be associated with and aggravating a service-connected medical condition. | You are eligible for:
Dental care to treat the oral conditions that are determined by a VA dental professional to have a direct and material detrimental effect to your service-connected medical condition. |
|--|---|

Determination for implants where initiated, supported by and proceeded by the following dental professionals:

- 1) Dr. Tarlow, SBCR Prosthodontist
- 2) Dr. Kazandjian, Director of Periodontics
- 3) Dr. Hassas, Resident Dentist
- 4) Dr. Roig, Dental Resident
- 5) Dr. Simmonds, Periodontist

(3)



Department of
Veterans Affairs

Veterans Health Benefits Handbook



(4)

Veterans Health Benefits Handbook

Your Primary Care Provider and Team Information

After your first Primary Care appointment, fill in the following information for future reference:

My Primary Care Provider is

My Primary Care Team is

I can reach my Primary Care Team by calling

Your Eligibility Information

The information in this ***Veterans Health Benefits Handbook*** reflects the benefits and services available to you at the time it was published. Since VA policies are governed by law, changes to programs or your eligibility may occur. If that occurs, we will send you updates that reflect these changes. If you have questions, contact your local Enrollment Coordinator or call us at 1-877-222-VETS (8387).

Health Benefits Are Different for Each Veteran — Including You

While all enrolled Veterans enjoy access to VA's comprehensive medical benefits package, certain benefits (for example, dental care) may vary from individual to individual, depending on each Veteran's unique eligibility status. This ***Veterans Health Benefits Handbook*** has been tailored specifically for you: Mr. AVIS SMITH

Important Phone Numbers

Veterans Crisis Line	1-800-273-TALK (8255), press 1
National Call Center for Homeless Veterans	1-877-424-3838
Health Enrollment Information or Questions about Bills for your VA Health Care	1-877-222-VETS (8387)
VA Compensation, Pension, Education and Loan Guaranty Programs	1-800-827-1000

Fax: 212-686-7590

Hospital

212-686-7500

Chapter 2

Your Eligibility

Your Priority Group

VA determines your eligibility for VA's comprehensive medical benefits package through our patient enrollment system, which is based on Priority Groups from 1 through 8. Our records indicate that you are enrolled in Priority Group 1. You will find a list of all Priority Groups at the end of this chapter.

Your Eligibilities

Your eligibility for VA health benefits is based on your unique eligibility factors, as listed below:

- 80% percent Service-connected

Correcting or Updating Your Eligibility Information

VA strives to keep correct and up-to-date eligibility information. However, there is the rare occasion when you may receive updated information (for example, a recent award of Pension or Service-connection) before it reaches your local VA facility. If you think that your eligibility information is incorrect or requires updating, contact VA at 1-877-222-VETS (8387) or visit your local health care facility.

Exhibit B

Progress Notes

Printed On Jan 18, 2018

Pt referred from Dr. Tarlow with tooth fracture #30. More recent radiographs taken which confirms again the fracture of the mesial root of #30 and a large defined PAP on the distal root indicating the tooth for extraction. These issues discussed with patient and grafting and implant also discussed in detail. Pt agrees and appt given in 2 wks for treatment.

/es/ GREGORY KAZANDJIAN, DDS, MS
DIRECTOR OF PERIODONTAL PROGRAM
Signed: 11/10/2010 14:52

LOCAL TITLE: DENTAL SUMMARY
STANDARD TITLE: DENTISTRY NOTE
DATE OF NOTE: JUL 20, 2010@17:21 ENTRY DATE: JUL 20, 2010@17:24:31
AUTHOR: TARLOW, JEFFREY EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Patient Name: SMITH, AVIS, DOB: 07/29/1951, Age: 58
Visit: S: Jul 20, 2010@11:00 NY-DENTAL TARLOW.
Primary PCE Diagnosis: 523.33 (ACUTE PERIODONTITIS).
Dental Category: 14-CLASS III. Treatment Status: Active.

Completed Care:
(D0140) LIMIT ORAL EVAL PROBLM FOCUS. DX: (523.33).
(D0220) INTRORAORAL PERIAPICAL FIRST F. Tooth: 30. DX: (523.33).

Dental Alerts:
#30: pt. c/o mobility; gingival pain; pa shows distal root fx; large area of radiolucency surrounding distal root; probes 10mm; tooth needs to be extracted, area grafted and implant placed; pt. to see Dr. Kazandjian.

/es/ JEFFREY TARLOW, DDS
STAFF PROSTHODONTIST
Signed: 07/20/2010 17:24

LOCAL TITLE: DENTAL SUMMARY
STANDARD TITLE: DENTISTRY NOTE
DATE OF NOTE: APR 01, 2010@11:51 ENTRY DATE: APR 01, 2010@12:13:05
AUTHOR: TARLOW, JEFFREY EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Patient Name: SMITH, AVIS, DOB: 07/29/1951, Age: 58
Visit: S: Apr 01, 2010@10:30 NY-DENTAL TARLOW.
Primary PCE Diagnosis: 525.60 (UNSAT RESTORE TOOTH NOS).
Dental Category: 14-CLASS III. Treatment Status: Active.

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)
SMITH, AVIS J
87-10 149TH AVENUE-APT 2D
HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation
Printed at BROOKLYN HHS

Exhibit C

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Pages 1-3

Printed On Jan 18, 2018

Progress Notes

Patient presents for extraction of #30 which is infected with a PAP and has endo and posts. Pt agrees to the procedure and signs the consent form. Time-out form completed as well.

A total of 2 carps of 2%xylo with 1:1000K epi in form of mand block (Gewe-Gates) and local intra-ligamentary injections.

Gold Ctown of tooth removed (and later gave to the patient upon request). Next the tooth was split in to two first and then each root removed separately. The roots came out with relative ease but there was a large granuloma associated with the tooth and the boney socket. The sockets were cleaned of all granulomatous tissues and debris.

Inspection of the socket revealed that there was facial and lingual bone, the inter-radicular bone was mainly destroyed from the infection. Because of the large defect and presence of the facial and lingual walls, it was decided to not graft the site. There appeared to be enough vertical bone for future implant placement.

Gelfoam placed within the socket and sutured with 3x chromic 4-0 sutures.

Pt tolerated procedure well, there was no excessive bleeding during or after the procedure. Pt instructions given about rinsing and type of food.

Rx: amox500 tidx 5 days; tylenol#3 ii TABS Q4-6H PRN X 3 DAYS.

RTC 2 wks or sooner if problems.

/es/ GREGORY KAZANDJIAN, DDS, MS
DIRECTOR OF PERIODONTAL PROGRAM

Signed: 12/06/2010 11:14

LOCAL TITLE: DENTAL SUMMARY

STANDARD TITLE: DENTISTRY NOTE

DATE OF NOTE: NOV 10, 2010@14:50

ENTRY DATE: NOV 10, 2010@14:52:25

AUTHOR: KAZANDJIAN, GREGORY

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

Patient Name: SMITH, AVIS, DOB: 07/29/1951, Age: 59

Visit: S: Nov 10, 2010@14:00 NY-DENTAL KAZANDJIAN.

Primary PCE Diagnosis: 873.73 (BROKEN TOOTH-COMPLICATED).

Dental Category: 14-CLASS III. Treatment Status: Active.

Completed Care:

(D9310) DENTAL CONSULTATION. DX: (873.73);
(522.4).

Dental Alerts:

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)
SMITH, AVIS J
87-10 149TH AVENUE-APT 2D
HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation
Printed at BROOKLYN HHS

(1) (2)

Progress Notes

Printed On Jan 18, 2018

Dental Examination:
Missing Teeth: 30.

Completed Care:
(D7999) ORAL SURGERY PROCEDURE. DX: (525.9).

Dental Alerts:

PO 3 mo visit. Tissues PO extraction #30 appear well healed without ridge concavity. Radiographs taken today show some but not complete bone fill into the previously severely infected socketsof the roots. Need to wait more and evaluate again. RTC 2 mos.

/es/ GREGORY KAZANDJIAN, DDS, MS
DIRECTOR OF PERIODONTAL PROGRAM
Signed: 03/04/2011 08:53

LOCAL TITLE: DENTAL SUMMARY

STANDARD TITLE: DENTISTRY NOTE

DATE OF NOTE: DEC 22, 2010@09:06

ENTRY DATE: DEC 22, 2010@09:08:45

AUTHOR: KAZANDJIAN, GREGORY

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

Patient Name: SMITH, AVIS, DOB: 07/29/1951, Age: 59

Visit: S: Dec 22, 2010@08:30 NY-DENTAL KAZANDJIAN.

Primary PCE Diagnosis: 525.9 (DENTAL DISORDER NOS).

Dental Category: 14-CLASS III. Treatment Status: Active.

Dental Examination:

Missing Teeth: 30.

Completed Care:

(D7999) ORAL SURGERY PROCEDURE. DX: (525.9).

Dental Alerts:

PO visit 1 wk. Tissues healing well, pt asymptomatic, no redness or inflammation, no pain on palpation. Pt happy. told pt to RTC 3 mos for eval of healing.

/es/ GREGORY KAZANDJIAN, DDS, MS

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)
SMITH, AVIS J
87-10 149TH AVENUE-APT 2D
HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation
Printed at BROOKLYN HHS

(3)

Progress Notes

Printed On Jan 18, 2018

URGENCY:

STATUS: COMPLETED

Patient Name: SMITH, AVIS, DOB: 07/29/1951, Age: 59
 Visit: S: Jun 14, 2011@10:00 NY-DENTAL TARLOW.
 Primary PCE Diagnosis: 525.50 (PARTIAL EDENTULISM NOS).
 Dental Category: 14-CLASS III. Treatment Status: Active.

Dental Examination:

Missing Teeth: 30.

Completed Care:

(D9310) DENTAL CONSULTATION. DX: (525.50).

Dental Alerts:

 PPt seen on 5 mo f/u from the extraction of the infected #30. There is bone fill in the socket but the level of calcification is poor. So we will wait another 2 mos for full calcification of the regenerated bone in the socket.

/es/ GREGORY KAZANDJIAN, DDS, MS
 DIRECTOR OF PERIODONTAL PROGRAM

Signed: 06/14/2011 11:57

LOCAL TITLE: DENTAL SUMMARY

STANDARD TITLE: DENTISTRY NOTE

DATE OF NOTE: MAR 18, 2011@13:01

ENTRY DATE: MAR 18, 2011@13:01:52

AUTHOR: TARLOW, JEFFREY

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

Patient Name: SMITH, AVIS

SS#: 069-44-4022

PAIN ASSESSMENT:

Intensity (0-10):

If PAIN score >0, identify pain:

Location:

Description:

Duration:

Frequency:

Pain Management:

#8, after pt. came from endo (completed) I placed prefab parapost (brown) and relined existing crown as provisional; passive fit of post; cement with Relyx.

/es/ JEFFREY TARLOW, DDS
 STAFF PROSTHODONTIST

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)
 SMITH, AVIS J
 87-10 149TH AVENUE-APT 2D
 HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation
 Printed at BROOKLYN HRS

Exhibit D

Progress Notes

Printed On Jan 18, 2018

crown was re-inserted.

Upon clinical evaluate, implant had a mobility of 3 and PA and BW radiographs were taken. PA showed radiolucent border around implant verifying that implant was no longer osseointegrated.

Anesthetized with 1 packet 20% topical benzocaine, 1 carpule 4% Septocaine with 1:100,000 epi via buccal infiltration and 2 carpules 2% lidocaine with 1:100,000 epi via IANB and local infiltrations.

PROCEDURE: Removed composite and teflon from access hole of crown #30. Implant was too mobile in osseous to and crown was torqued to implant so crown could not be removed from implant and clinical decision was made to remove implant from site #30.

Explained situation clearly to patient and patient understood. Informed consent was obtained after discussion of R/B/A to the procedure and anesthesia. Patient understands the risks and benefits, and agrees to have the procedure done.

The Universal Protocol for conducting a Time Out was done and documented in the IDN: NON-OR PROCEDURE TIME OUT CHECKLIST note.

#12 blade was used to make sulcular incision around implant #30. Straight elevator was used and implant was successfully elevated out of socket. Socket was curetted and irrigated copiously with saline solution. Socket was evaluated and all four bony walls were present and no dehiscence noted. Allograft, Collaplug and membrane was placed in socket. 3-0 PTFE suture placed.

Patient tolerated procedure well and hemostasis was achieved prior to patient leaving clinic. Post op instructions were given written and verbally.

The following medications were prescribed:

Rx: Ibuprofen 600 mg

Disp: 20 tabs

Sig: Take 1 tab PO Q6H PRN pain

Rx: Amoxicillin 500 mg

Disp: 30 tabs

Sig: Take 1 tab PO TID for 10 days to prevent infection

Rx: 0.12% chlorhexidine gluconate solution

Disp: 1 bottle

Sig: Rinse BID for 14 days and do not eat or drink for 30 mins after

NV: F/U post-op appointment

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)
 SMITH, AVIS J
 87-10 149TH AVENUE-APT 2D
 HOWARD BEACH, NEW YORK 11414

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Exhibit E

Progress Notes

Printed On Jan 18, 2018

Primary PCE Diagnosis: Z01.20 (ENCOUNTER FOR DENTAL EXAMINATION AND CLEANING WITHOUT ABNORMAL FINDINGS).

Dental Category: 14-OPC, Class III. Treatment Status: Inactive.

Completed Care:

(D0191) BRIEF ASSESSMENT. DX: (Z01.20).

Patient presents for a f/u 2.5 month after extraction of implant in site 30 with bone graft. Patient reports no pain or discomfort in the area. (-) trismus, (-) chills, (-) fever, (-) erythema, (-) suppuration. Gingiva is coral pink and appropriate width and height of alveolar ridge in site #30. Site appears to have healed well.

Patient is a class III and previously had his work completed here at the VA by Dr. Tarlow. Will discuss with Dr. Miranda about patient's eligibility for replacement of implant.

/es/ Shari Ginsburg, DDS

DENTAL RESIDENT

Signed: 11/25/2016 08:27

/es/ TREVOR F SIMMONDS, DDS

ASSISTANT CHIEF, DENTAL/PERIODONTIST

Cosigned: 11/25/2016 08:37

LOCAL TITLE: DENTAL SUMMARY COSIGN

STANDARD TITLE: DENTISTRY NOTE

DATE OF NOTE: OCT 14, 2016@08:12 ENTRY DATE: OCT 14, 2016@08:45:37

AUTHOR: GINSBURG, SHARI EXP COSIGNER: SIMMONDS, TREVOR F

URGENCY: STATUS: COMPLETED

Patient Name: SMITH, AVIS J, DOB: 07/29/1951, Age: 65

Visit: S: Oct 14, 2016@08:00 NY-DENTAL GINSBURG.

Primary PCE Diagnosis: K08.54 (Contour of Existing Restoration of Tooth Biologically Incompatible with Oral Health).

Dental Category: 14-OPC, Class III. Treatment Status: Inactive.

Planned Procedures:

Unsequenced

- (D0220) INTRORAORAL PERIAPICAL FIRST: 13. DX: () .
- (D0220) INTRORAORAL PERIAPICAL FIRST: 30. DX: () .
- (D0230) INTRORAORAL PERIAPICAL EA ADD: 29. DX: () .
- (D0270) DENTAL BITEWING SINGLE IMAGE: . DX: () .
- (D2750) CROWN PORCELAIN W/ H NOBLE M: 11. DX: () .
- (D2750) Crown porcelain w/ h noble m: 9. DX: () .
- (D4999) UNSPECIFIED PERIODONTAL PROC: . DX: () .
- (D5899) REMOVABLE PROSTHODONTIC PROC: . DX: () .
- (D6999) FIXED PROSTHODONTIC PROC: . DX: () .

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

SMITH, AVIS J

87-10 149TH AVENUE-APT 2D

HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation

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Exhibit F

Progress Notes

Printed On Jan 18, 2018

consulted and d/w the patient the option of extraction and future implant in the area , patients agreed , area of the sockets degranulated and particulate bone ACE was placed , fig 8 sutures were placed chromic gut after copious irrigation with saline,, positive haemostasis achieved and POI d/w patient , Rx amoxicilline 500mg, motrin 600mg , peridex.

/es/ DAWLAT HASSO
DENTAL RESIDENT
Signed: 02/07/2013 15:04

/es/ Steven Caldrony DDS, MD
Oral and Maxillofacial
Cosigned: 02/11/2013 12:18

LOCAL TITLE: DENTAL SUMMARY
STANDARD TITLE: DENTISTRY NOTE
DATE OF NOTE: FEB 01, 2013@09:33 ENTRY DATE: FEB 01, 2013@09:34:22
AUTHOR: TARLOW, JEFFREY EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Patient Name: SMITH, AVIS, DOB: 07/29/1951, Age: 61
Visit: V: Jan 29, 2013@13:00 NY-DENTAL TARLOW.
Primary PCE Diagnosis: 521.12 (EXCESS ATTRITION-DENTINE).
Dental Category: 14-CLASS III. Treatment Status: Active.

Completed Care:
(D9940) DENTAL OCCLUSAL GUARD. DX: (521.12).
(D0220) INTRORAORAL PERIAPICAL FIRST F. Tooth: 14. DX: (523.33).
insert bite guard; pt. will see Drs. Caldron and Hasso in Brooklyn for exo #14 with socket preservation.

/es/ JEFFREY TARLOW, DDS
STAFF PROSTHODONTIST
Signed: 02/01/2013 09:34

LOCAL TITLE: DENTAL SUMMARY
STANDARD TITLE: DENTISTRY NOTE
DATE OF NOTE: JAN 29, 2013@16:02 ENTRY DATE: JAN 29, 2013@16:02:24
AUTHOR: TARLOW, JEFFREY EXP COSIGNER:
URGENCY: STATUS: COMPLETED

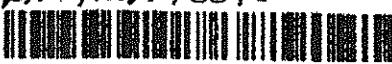
Patient Name: SMITH, AVIS SS#: 069-44-4022

PAIN ASSESSMENT:
Intensity (0-10):
If PAIN score >0, identify pain:
Location:
Description:

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)
SMITH, AVIS J
87-10 149TH AVENUE-APT 2D
HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation
Printed at BROOKLYN HHS

Exhibit G

SENDER															
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. 															
1. Article Addressed to:															
<p>Hospital Director W/ Harbor Healthcare 423 E 23rd St. NY, NY, 10010</p>  <p>9590 9402 2511 6306 3854 62</p>															
2. Article Number (Transfer item service label)															
7017 0660 0000 2916 3064															
PS Form 3811, July 2015 PSN 7830-02-000-0053															
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Domestic Return Receipt															

USPS TRACKING#



First-Class Mail
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United States
Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

Avis J. Smith #20
8710 149th Ave.
Howard Beach, N.Y. 11414

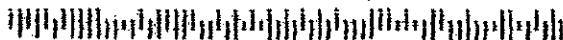


Exhibit H

(1)

Pages 1 + 2

Avis J. Smith
8710 149th Avenue #2D
Howard Beach, New York 11414

VA Inspector General
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington DC 20420

16 January 2018

Reference number: 2018-00645-HL-0588

Dear Inspector General:

I am requesting an appeal of the determination based on the following facts:

1. As a veteran who was 70% at the time I first presented a letter from my psychiatrist to the Chief of Dental Service, Dr. Bergen I was allowed to be treated. I fulfilled the required process by having a letter from my psychiatrist as requested by the Chief of Dental Service as far back as 1982 or 1983. Based on the letter from my psychiatrist, I was allowed to be seen for treatment to help my status.
2. Since the 70% rating, there was an increase to 80% due to a worsening of my condition, supported by a letter enclosed.
3. The policy has not changed since the letter from my psychiatrist, nor has my condition changed. The only thing that has changed is that there is a new dental chief who refused to allow me to be treated after a dental implant, which was put in without bone grafting became loose and had to be removed. Bone grafting would have facilitated bone integration with the implant.
4. The chief of the dental clinic in her office explained to me her reason for refusing me treatment as, "I've seen veterans whose hands were all twisted...". There is no VA policy, which states that my hands must be twisted to receive dental treatment.
5. There was no policy stating that there is an expiration date in reference to the original letter sent to Dr. Bergen, the Chief of the Dental Clinic in 1982 or 1983, from my psychiatrist.
6. Also, the very day my implant had to be removed, during my appointment with Dr. Ginsberg, she stated, "I don't see why another implant can't be done". This was after Dr. Miranda refused to replace the implant.
7. My total dental history is in the hands of the VA, and it would cause a hardship for me to start a new process at someplace else, and could damage.

8. The fact that Dr. Miranda made the statement, "I've seen veterans with hands all twisted who couldn't get dental treatment"; represents bias of the fact that my hands aren't twisted.

My desire is to appeal in order exhaust all administrative remedies. Time in waiting can cause bone lose, which is a major concern. What should I do; go back to the war zone to have my hands twisted?

Sincerely,

Avis J. Smith

Exhibit i

Progress Notes

Printed On Jan 18, 2018

Duration:

Frequency:

Pain Management:

PATIENT NEEDS FOLLOWUP FOR EXTENSIVE FIXED AND IMPLANT TX.

HAS VERY HEAVY OCCLUSAL FORCE; VERY GOOD ORAL HYGIENE.

PATIENT NEEDS YEARLY MEDICAL CONSULT TO MAINTAIN CATEGORY 3 ELIGIBILITY STATUS.
CONSULT WITH DR. MIRANDA PRIOR TO ANY FURTHER TX.

/es/ JEFFREY TARLOW, DDS
STAFF PROSTHODONTIST

Signed: 06/07/2016 13:15

LOCAL TITLE: DENTAL SUMMARY

STANDARD TITLE: DENTISTRY NOTE

DATE OF NOTE: MAY 27, 2016@11:12

ENTRY DATE: MAY 27, 2016@11:15:23

AUTHOR: TARLOW, JEFFREY

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

Patient Name: SMITH, AVIS J, DOB: 07/29/1951, Age: 64

Visit: S: May 27, 2016@09:30 NY-DENTAL GOLDSTEIN.

Primary PCE Diagnosis: K08.51 (OPEN RESTORATION MARGINS OF TOOTH).

Dental Category: 14-OPC, Class III. Treatment Status: Active.

Completed Care:

(D2391) POST 1 SRFC RESINBASED CMPST. Tooth: 29. Surface(s): O.
DX: (K08.51).

(D9940) DENTAL OCCLUSAL GUARD. DX: (K03.0).

(D9940) DENTAL OCCLUSAL GUARD. DX: (K03.0).

(D9940) DENTAL OCCLUSAL GUARD. DX: (K03.0).

(D0120) PERIODIC ORAL EVALUATION. DX: (Z01.20).

(D1110) DENTAL PROPHYLAXIS ADULT. DX: (K05.10).

Presentation/Chief Complaint:

Patient presents for periodic oral evaluation

Patient has no dental complaints

Vital Signs:

Vital signs not obtained

Past Medical History and Medications:

No significant changes since the last dental visit

No history of:

Hypertension, Diabetes, Head and neck cancer, Prosthetic joint,

Bisphosphonates, Cardiac condition, Respiratory condition, Excessive bleeding

Active Problems:

Schizophrenia (SCT 58214004)

Medical examinations/reports status (SCT 310366008)

Localized swelling, mass and lump, neck (SCT 274747003)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)
 SMITH, AVIS J
 87-10 149TH AVENUE-APT 2D
 HOWARD BEACH, NEW YORK 11414

VISTA Electronic Medical Documentation
 Printed at BROOKLYN HHS